Heartland Health Care Center d/b/a Plymouth Court *and* Local 79, Service Employees International Union, AFL–CIO, CLC. Case 7–CA–46017

March 4, 2004

DECISION AND ORDER

BY MEMBERS SCHAUMBER, WALSH, AND MEISBURG

On November 4, 2003, Administrative Law Judge Karl H. Buschmann issued the attached decision. The General Counsel filed an exception and a supporting brief and the Respondent filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order as modified.

The General Counsel, in his exception, requested that the Board modify the judge's remedy to order the Respondent to pay the Union the dues it should have checked off and remitted during the effective dates of the contract while the Respondent refused to recognize the Union. It is well established that the Board requires an employer to reimburse the union for dues-checkoff payments that it failed to make under the collective-bargaining agreement where employees have individually signed valid authorizations for the employer to deduct union dues from their wages. *W. J. Holloway & Son*, 307 NLRB 487 fn. 3 (1992), citing *California Blowpipe & Steel Co.*, 218 NLRB 736, 754 (1975), enfd. 543 F.2d 416 (D.C. Cir. 1976). Here, the record shows that the collective-bargaining agreement contains a union-security clause and a dues-checkoff provision. Further, the Respondent had a practice of checking off dues, which it discontinued after withdrawing recognition from the Union. Thus, it is reasonable to infer that at least some employees had executed valid authorizations, although the extent of authorized checkoff is not shown.[2] Accordingly, we shall modify the judge's recommended Order and Notice to require the Respondent to comply with the dues-checkoff provision of the contract and remit to the Union all union dues owed pursuant to valid checkoff authorizations,[3] with interest.[4]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Heartland Health Care Center d/b/a Plymouth Court, Plymouth, Michigan, its officers, agents, successors, and assigns shall take the action set forth in the Order as modified.

1. Insert the following as paragraph 2(d) and reletter the subsequent paragraphs.

"Remit to the Union dues which should have been, but were not, deducted from employees' paychecks pursuant to valid dues-check off authorizations until the expiration of the July 8, 2002—July 8, 2005 collective-bargaining agreement, with interest."

2. Substitute the attached notice for that of the administrative law judge.

Dated, Washington, D.C. March 4, 2004

Peter C. Schaumber,	Member
Dennis P. Walsh	Member
Ronald Meisburg	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

[1] There are no exceptions to the judge's finding that the Respondent violated Sec. 8(a)(5) and (1) of the Act by withdrawing recognition of the Union as the exclusive collective-bargaining representative of the Respondent's employees.

[2] Because of this record evidence, Members Schaumber and Meisburg need not decide if, in the absence of such evidence, they would order reimbursement of dues-checkoff payments. Compare, e.g., *Southland Dodge*, 205 NLRB 276 (1973), enfd. 492 F.2d 1238 (3d Cir. 1974); *Monument Printing Co.*, 231 NLRB 1215 fn. 3 (1977); *California Blowpipe & Steel*, 218 NLRB at 754, with those cases cited by Member Walsh at fn. 3 below.

[3] In finding merit in the General Counsel's exception and in modifying the judge's recommended Order accordingly, Member Walsh finds it unnecessary to rely on his colleagues' inference from the record at this stage of the proceeding that at least some employees had in fact executed valid dues-checkoff authorizations. The propriety of modifying the judge's recommended Order as requested by the General Counsel does not turn on whether the record *in the unfair labor practice proceeding* establishes that at least some employees in fact executed valid dues-checkoff authorizations. See, e.g., *Route 22 Toyota*, 337 NLRB 84 (2001) (no expressed or implied requirement that record *in unfair labor practice proceeding* establish existence of actual valid dues-checkoff authorizations as prerequisite for ordering respondent to remit dues to union pursuant to valid dues-checkoff authorizations); *Meekins, Inc.*, 290 NLRB 126 (1988) (same); *O'Neill, Ltd.*, 288 NLRB 1354, 1357 (1988), enfd. 965 F.2d 1522 (9th Cir. 1992), cert. denied 509 U.S. 904 (1993) (same); *John Deklewa & Sons*, 282 NLRB 1375 (1987), enfd. sub nom. *Iron Workers Local 3 v. NLRB*, 843 F.2d 770 (3d Cir. 1988), cert. denied 488 U.S. 889 (1988) (same); *BDJ Contracting Co.*, 273 NLRB 1858 (1985) (same). A showing of valid dues-checkoff authorizations can be made at the compliance stage of this proceeding.

[4] All interest payments are to be made as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist any union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT withdraw recognition from Local 79, Service Employees International Union, AFL–CIO, CLC during the term of the collective-bargaining agreement effective from July 8, 2002 to July 8, 2005.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights set forth above.

WE WILL honor the terms of the collective-bargaining agreement effective July 8, 2002 to July 8, 2005.

WE WILL recognize and, on request, bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the unit:

> All full-time and regular part-time nurses aides, housekeeping employees, dietary employees, laundry employees, maintenance employees, orderlies and cooks, employed by us at our facility located at 105 Haggerty Road, Plymouth, Michigan; but excluding registered nurses, licensed nurses, administrators, office clerical employees, and guards, supervisors as defined in the Act, and all other employees

WE WILL make whole, with interest, the unit employees to the extent they suffered economically as a result of our failure to abide by the agreement and, to the extent requested by the Union, restore the status quo ante, as it existed prior to March 3, 2003.

WE WILL remit to the Union dues which should have been, but were not, deducted from employees' paychecks pursuant to valid dues-checkoff authorizations until the expiration of the July 8, 2002—July 8, 2005 collective-bargaining agreement, with interest.

HEARTLAND HEALTH CARE CENTER D/B/A PLYMOUTH COURT

Judith Schulz and *Darlene Haas-Awada, Esqs.*, for the General Counsel.

Clifford H. Nelson, Jr. and *Davis S. Mohl, Esqs. (Wimberly, Lawson, Steckel, Nelson & Schneider, P.C.),* of Atlanta, Georgia, for the Respondent.

Bruce A. Miller, Esq. (Miller Cohen, P.L.C.), of Detroit, Michigan, for the Charging Party.

DECISION

STATEMENT OF THE CASE

KARL H. BUSCHMANN, Administrative Law Judge. This case was heard in Detroit, Michigan, on August 27, 2003, on a complaint dated May 28, 2003, alleging that the Respondent, Heartland Health Care Center d/b/a Plymouth Court, violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by withdrawing recognition of the Union as the exclusive collective-bargaining representative of the Respondent's employees. The underlying charges were filed by the Union, Local 79, Service Employees International Union, AFL–CIO–CLC, on March 14, 2003, as amended May 21, 2003. The Respondent filed a timely answer, admitting the jurisdictional allegations in the complaint, as well as the supervisory status of certain officials named in the complaint, and that it withdrew recognition of the Union as the bargaining representative of the employees.

On the entire record, including my observation of the demeanor of the witnesses, and after consideration of the briefs of the General Counsel, the Charging party, and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

1. Heartland Health Care Center d/b/a Plymouth Court, the Respondent, is a corporation, with an office and facility in Plymouth, Michigan, and where it is engaged in the operation of a nursing home. With gross revenues exceeding $100,000 and purchases of goods and materials in excess of $5000 from points located outside the State of Michigan, the Respondent is admittedly an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.

2. The (Charging Party) Union is admittedly a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time nurses aides, housekeeping employees, dietary employees, laundry employees, maintenance employees, orderlies and cooks, employed by Respondent at its facility located at 105 Haggerty Road, Plymouth, Michigan; but excluding registered nurses, licensed practical nurses, administrators, office clerical employees, and guards, supervisors as defined in the Act, and all other employees.

4. Since 1985 until about March 3, 2003, when the Respondent withdrew recognition of the Union, the Union has admittedly been the exclusive collective-bargaining representative of the unit and has been recognized by the Respondent, in successive collective-bargaining agreements.

5. The following individuals are supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act: Dan Wood, assistant vice president, director of employee relations, Jeff Harper, regional human resource manager, Linda Tille, human resource coordinator, Amy LaFleur, administrator, Felicia Murden, human resource manager, Mike Cunningham, consultant.

Issue

This case presents a contract question to determine whether the Respondent may lawfully withdraw recognition of the Union. If the record supports the position of the General Counsel and the Charging Party that a valid contract had been negotiated by the parties, the Respondent would be bound by its terms and be unable to withdraw recognition of the Union. The position of the Respondent is that the voice mail message left by a member of the Union's team of negotiators had the effect of revoking a tentative agreement and that a valid acceptance of the contract did not occur.

I conclude that the record amply supports a finding that a valid contract was executed and that the parties were bound by the terms, which they had negotiated.

Background

Plymouth Court is a nursing home, located in Plymouth, Michigan. Its employees (as defined in the unit) had been represented by Local 79, Service Employees International Union since 1985. The parties have been signatories to successive collective-bargaining agreements.

Negotiations for a contract to succeed the one that on July 8, 2002, began in October 2002 (J. Exh. 1). Representing the Respondent was Mike Cunningham, a consultant and lead negotiator; Amy LaFleur, administrator; Jeff Harper, human resources manager; and Felicia Marden, human resources manager. Representing the employees were Norman Bomer, union business representative, Mary Nelson, business agent, Felicia Booker, steward, Ida Lawson, steward; and Judy Jackson, steward. After approximately eight negotiation sessions, the parties reached a "Tentative Agreement," dated December 19, 2002 (J. Exh. 2). This agreement was signed by the five union negotiators, including Norman Bomer, Judy Jackson, and Felicia Booker and the two company negotiators, Mike Cunningham and Amy LaFleur.

According to LaFleur and Bomer, the parties had reached a complete agreement on all issues. The new agreement was based on the prior expired bargaining agreement, and incorporated all changes to which the parties had agreed. Among the changes was a provision in article II, section 9, dealing with the employee's eligibility for vacations. The Union had proposed this provision and the Respondent had agreed to the Union's proposal with minor changes.

The parties understood that the tentative agreement had to be ratified by the Union's membership, which was scheduled for December 27, 2002, at the Respondent's facility. LaFleur testified that she hoped for a favorable outcome, stating "I was hoping that we had reached an agreement that everyone would be happy with" (Tr. 35).

On December 27, 2002, the union membership ratified the tentative agreement. Bomer promptly called Cunningham to inform him "that the contract was ratified, and that they have a contract" (Tr. 68). Bomer, accompanied by Mary Nelson, then went to LaFleur's office to report the ratification of the agreement. LaFleur testified that it was her understanding that an agreement had been reached.

On January 8, 2003, the Company, in compliance with the agreement, implemented the contract and effectuated its provision for a pay increase, and the payment of a ratification bonus to all employees. In short, the employees received a 40-cent pay raise and $300 bonus for full-time employees and a $125 payment for part-time employees pursuant to the new agreement.

Thereafter, the Respondent prepared a comprehensive written draft of the contract for review by the Union. Following the review, the Union informed LaFleur by telephone call on January 27, 2003, that the draft was all right and to make copies. LaFleur informed the Union that she would so inform Dan Wood, director of employee relations and assistant vice president for the Respondent, and Linda Tille, administrator of labor negotiations.

On February 6, 2003, the Union received four copies of the formal and final contract signed by Dan Wood, assistant vice president and director of employee relations, for the Employer (J. Exh. 5). The forwarding letter, dated February 6, 2003, was signed by Linda Tille, human resources coordinator (J. Exh. 6).

Union negotiators Nelson, Jackson, and Booker reviewed the copies prior to signing the contract and discovered what they believed was an incorrect provision dealing with vacations and that the final contract had omitted a provision that employees with 5 years' seniority would be entitled to vacations. Accordingly, Nelson called Tille and left the following message (R. Exh. 1):

> Hi, Ms. Tille, this is Mary Nelson from Local 79. My number is 313/965-9450, ext. 128. I have a problem. Everything is OK, except Article II, "Vacations," Section 9. It says,
>
> "No vacations shall be taken between December 20th and January 5, expect employees with over ten (10) years of seniority, who will be allowed to take vacation time between Christmas and New Year's day holiday. Employees with five (5) to ten (10) years of service will be eligible to take vacation during this period of time. The Employer reserves the right to approve vacation requests during this period of time, based on the needs of the residents."
>
> Could you give me a call? I think, one, section 9, the ten years is supposed to be put out and then the five to ten years of service is supposed to be put in. Could you give me a call so we could straighten this out so we can get this signed because I got the bargaining unit member down here today so we can have it signed, sealed and delivered.

Tille did not return Nelson's telephone message. Instead, she forwarded the call to Billie West, senior employee consultant. He responded by letter of February 28, 2003, addressed to Nelson, as follows (R. Exh. 7):

> I am researching the information regarding the change in the Plymouth Court contract, adding the word "five" years instead of the current ten years, as referenced in Article 11, "Vacations," section 9. Since I was not the chief negotiator, I will need to talk with Mike Cunningham and will get back to you as soon as I am able to verify the information.

In the meantime, Jackson and Nelson realized that their concern was unfounded, and that once they read section 9 of article II in its entirety, the contract correctly provided for the vacation benefits to which all parties had agreed (GC Exh. 3). They accordingly signed the agreement and submitted it to Willie Hampton, union president, for his signature on February 23, 2003 (GC Exh. 3, p. 27). Nelson made additional copies of the signed contract for distribution to the union membership.

On March 3, 2003, LaFleur received a petition signed by 31 employees, stating that they no longer wished to be represented by the Union (J. Exh. 8). Based on this petition, signed by half the membership of the bargaining unit, the Respondent notified the Union by letter, dated March 3, 2003, stating as follows (J. Exh. 7):

> I have received objective evidence that a majority of Heartland Health Care Center-Plymouth Court employees no longer wish to be represented by SEIU Local 79. Because we do not have a meeting of the minds with respect to a new collective bargaining agreement, I am sending this letter to inform you that the Company withdraws recognition from your Union as the bargaining representative of Heartland Health Care Center-Plymouth Court employees effective immediately.

LaFleur, who sent this letter to the Union, testified without contradiction that her reference in the letter to "a meeting of the minds" was based on what she had heard about the vacation policy.

Nelson, who had received the Respondent's letter on behalf of the Union, attempted to call LaFleur on several occasions. On March 11, 2003, LaFleur called Nelson to tell her "that there was no longer a Union at Plymouth Court, and that [she] was not allowed to come out there" (Tr. 86). Nelson made an attempt to distribute copies of the contract to the Respondent, but was only able to leave a signed copy at the facility.

Analysis

The record shows that the parties agreed again and again to the negotiated terms of the tentative contract and took the necessary steps in the bargaining process to arrive at the finished product, the collective-bargaining agreement. However, when confronted with the decertification petition on March 3, 2003, the Respondent promptly seized on a minor misunderstanding among members of the Union's bargaining committee to rid itself of its contractual obligations and the obligations to recognize the Union. Yet it is clear that the parties repeatedly assented to the negotiated provisions of the tentative agreement. All participants to the negotiations, including the Respondent's principal in the negotiations, Administrator LaFleur, believed that a valid agreement had come into existence. The Respondent, however, forcefully argues that the "voicemail left by Mary Nelson on February 21st had the immediate effect of canceling the tentative agreement, as well as the draft agreement signed by Dan Wood and sent to the Union on February 6th" (R. Br. p. 5-6). According to the Respondent's argument, "Nelson effectively gave the Respondent a counter-proposal," by "communicating the Union's dissatisfaction with a substantive term of the contract . . . [which] served as a revocation of the terms proposed in the tentative agreement."

The Respondent's position is not persuasive, even if a controversy had arisen about the vacation issue, a relatively insignificant provision in the overall contract, the law of contracts would come into play to determine whether a disagreement about one provision in a comprehensive agreement, covering multiple issues, has the effect of voiding the entire contract. But that is not the factual scenario here. One of the union negotiators acted to assure that a certain provision, which had been negotiated and agreed to between all parties, was made part of the contract. She notified the Respondent to express that concern, but once she realized that everything was in place she abandoned any further efforts. But, any suggestion that the Union submitted a counteroffer is factually inaccurate. The Union's call simply served to assure that a certain negotiated proviso was actually part of the final agreement.

The validity of a collective-bargaining agreement is important to the consideration of the issues in this case. Not only are the parties bound by the terms of the contract, which they had negotiated, but the Employer is also prohibited from withdrawing recognition of the Union. *Auciello Iron Works, Inc.*, 517 U.S. 781, 785 (1996). There, the Supreme Court stated that the union is entitled to a conclusive presumption of majority status during the term of a collective-bargaining agreement. Id. at 785. Accordingly, an employer violates the Act if it disavows a collective-bargaining agreement because of a good-faith doubt about a union's majority status during the term of the agreement.

Here, the Respondent argues that the Union's voice mail message had the effect of revoking the tentative agreement and quarrels about two superficial differences in the two final versions of the contract (GC Exh. 3, R. Exh. 32). Although both agreements are identical, the Respondent suggests that the signatures of two bargaining committee members, Judy Jackson and Felicia Booker, appear inverted on one of the copies, and that the handwritten notation "change" appears on the other copy in section 9, article II. Presumably, when the final copies of the contract were signed, the signatories simply signed in reverse order on different lines. Suffice it to say, that there is no suggestion that the signatures are invalid. Moreover, the word "change" is simply meaningless as it appears in handwritten form and does not affect the authenticity of the contract. The record shows conclusively that the contract was signed by all parties and properly ratified by the union membership. The Union's ratification was repeatedly communicated to the responsible officials of the Company of a valid contract, negotiated, signed, and accepted by the appropriate parties and finally distributed. Nowhere in the record is there any suggestion that the agreements as they appear in the record, are not authentic, that they were improperly negotiated, or that one of the parties had failed to agree to any or all the provisions. The Respondent's twisted argument that the voice mail message was a

proposal of new terms to the Respondent's offer of February 6, 2003, when it sent four copies, signed by Dan Wood, to the Union, is blatantly erroneous. A valid contract came into existence as soon as the tentative contract was executed by the parties and ratified by the Union on December 27, 2002. Significantly, all parties not only agreed to all of the portions of the contract, but the Respondent also effectuated its provisions, thereby "consummating" the collective-bargaining agreement. The subsequent activity, the printing of the final copies, and review of the final copy formalized the process.

In the leading case on the subject, *Appalachian Shale Products Co.*, 121 NLRB 1160 (1958), relied on by the parties, the Board held that a contract, "to constitute a bar must be signed by all the parties," be in writing and it must "contain substantial terms and conditions of employment." Where "ratification is a condition precedent," it is ineffective as a bar unless ratified. Plainly, here the record shows that all the necessary indicia are present, the contract was in writing, signed by all parties and ratified by the union membership. The ratification was communicated to the Respondent's lead negotiator, Cunningham, and administrator, LaFleur. The Respondent not only admitted that it received notice of the ratification, but it implemented the contract. The Respondent's witnesses, LaFleur and Tille, as well as Bomer and Nelson, testified that a complete agreement had been reached.

The Union's voice mail message of February 21, 2003, was for all practical purposes no more than a last minute effort to assure that one agreed to item was actually present in the final copy. As pointed out by the General Counsel, even a dispute over a contract term or a minor variation in the later draft would not have the effect of nullifying the contract, where, as here, no further bargaining sessions were scheduled, the parties had signed the document containing an agreement on substantial terms and conditions of employment, and the employer had implement the terms of the agreement. *Farrel Rochester Division*, 256 NLRB 996 (1981); *Gaylord Broadcasting Co.*, 250 NLRB 198, 199 (1980).

I accordingly find that the Respondent was barred from withdrawing recognition from the Union by the existence of a valid collective-bargaining agreement.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time nurses aides, housekeeping employees, dietary employees, laundry employees, maintenance employees, orderlies and cooks, employed by Respondent at its facility located at 105 Haggerty Road, Plymouth, Michigan; but excluding registered nurses, licensed practical nurses, administrators, office clerical employees, and guards, supervisors as defined in the Act, and all other employees.

4. The Union has been the exclusive collective-bargaining representative of the unit and has been so recognized by the Respondent in successive collective-bargaining agreements, the most recent of which is effective from July 8, 2002 through July 8, 2005.

5. By withdrawing recognition of the Union as the exclusive collective-bargaining representative of the unit, the Respondent violated Section 8(a)(1) and (5) of the Act.

6. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

On these findings and conclusions of law and on the entire record, I issue the following recommended[1]

ORDER

1. The Respondent, Heartland Health Care Center d/b/a Plymouth Court, Plymouth, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Withdrawing recognition from Local 79, Service Employees International Union, AFL–CIO, CLC during the term of the collective-bargaining agreement effective from July 8, 2002 to July 8, 2005.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Honor the terms of the collective-bargaining agreement, effective July 8, 2002 to July 8, 2005.

(b) Recognize and, on request, bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the unit:

> All full-time and regular part-time nurses aides, housekeeping employees, dietary employees, laundry employees, maintenance employees, orderlies and cooks, employed by Respondent at its facility located at 105 Haggerty Road, Plymouth, Michigan; but excluding registered nurses, licensed nurses, administrators, office clerical employees, and guards, supervisors as defined in the Act, and all other employees

(c) Make whole, with interest, the unit employees to the extent they suffered economically as a result of the Respondent's failure to abide by the agreement, and, on the Union's request, restore the status quo ante, as it existed prior to March 3, 2003.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for a good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay and other payments due under the terms of this Order.

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[1] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(e) Within 14 days after service by the Region, post at its current jobsites within the geographical area encompassed by the appropriate unit herein and at its facility in Plymouth, Michigan, copies of the attached notice marked "Appendix."[2] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business of closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any since March 3, 2003.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. November 4, 2003

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist any union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT withdraw recognition from Local 79, Service Employees International Union, AFL–CIO, CLC during the term of the collective-bargaining agreement effective from July 8, 2002 to July 8, 2005.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the right guaranteed them by Section 7 of the Act.

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> All full-time and regular part-time nurses aides, housekeeping employees, dietary employees, laundry employees, maintenance employees, orderlies and cooks, employed by us at our facility located at 105 Haggerty Road, Plymouth, Michigan; but excluding registered nurses, licensed nurses, administrators, office clerical employees, and guards, supervisors as defined in the Act, and all other employees

WE WILL make whole, with interest, the unit employees to the extent they suffered economically as a result of our failure to abide by the agreement and, on the Union's request, restore the status quo ante, as it existed prior to March 3, 2003.

HEARTLAND HEALTH CARE CENTER D/B/A PLYMOUTH COURT

[2] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."